

**MINUTES FOR THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

March 17, 2009

DIVISION ONE

Court convened at 9:00 a.m.

Present: Mallano, P.J., Rothschild, J., Weisberg, J. (Assigned), Tucker, J. (Assigned) and S. Stahl, Deputy Clerk.

Each of the following:

B198722 People v. Jimenez
B201678 People v. Walker
B204172 People v. Gray
B204655 People v. Eckman
B205553 People v. Acosta
B205833 People v. Russell
B206492 People v. Fraga
B208824 People v. E.L.
B210088 People v. Williams
B207767 DCFS v. M.M.
B209001 DCFS v. E.B.
B210023 DCFS v. C.G.
B196591 DCFS v. M.R.

Argument waived, cause submitted.

B207973 Frizzel et al.
v.
Gunatilake et al.

Merits:

Argued by Richard H. Coombs, Jr. for appellants and by Craig B. Forry for respondents. Cause submitted.

DIVISION ONE (continued)

B203971 People
 v.
 Villegas

Merits:
Argued by Cindy Brines for appellant and by Stacy Schwartz, Deputy Attorney General, for respondent. Cause submitted.

B209265 Los Angeles County, D.C.F.S.
 v.
 W.J.

Merits:
Argued by Rich D. Pfeiffer for appellant and by Jeanette Cauble, Deputy Attorney General, for respondent. Cause submitted.

B208452 Los Angeles County, D.C.F.S.
 v.
 A. W.

Merits:
Argued by Ronald Koncan for appellant and by Tracey F. Dodds, Deputy County Counsel, for respondent. Cause submitted.

B210311 Los Angeles County, D.C.F.S.
 v.
 W. A.

Merits:
Argued by Donna Kaiser for appellant and by William D. Thetford, Deputy Attorney General, for respondent. Cause submitted.

DIVISION ONE (continued)

B208685 Halil
 v.
 Medical Board of California

Merits:
Argued by Arnold M. Johnson for appellant and by Chris Leong, Deputy Attorney General, for respondent. Cause submitted.

B203065 Pharris et al.
 v.
 City of Lancaster

Merits:
Argued by Vana Parker Margolese for appellants and by Allison E. Burns for appellant. Cause submitted.

B201124 Folkert
 v.
 Folkert

Merits:
Argued by Najila K. Brent for appellant and by Pauline M. Rosen for respondent. Cause submitted.

Court recessed.

Court reconvened at 10:25 a.m.

Present: Mallano, P.J., Rothschild, J., Tucker, J. (Assigned) and S. Stahl, Deputy Clerk.

B209521 Grant Thornton LLP
 v.
 Burgh Balian & Bergstein LLP et al.

Merits:
Argued by Robert c. Keaster for respondents and by Anthony L. Press for respondent. Cause submitted.

March 17, 2009 (Continued)

DIVISION ONE (continued)

B196591 Dayco Funding Corp.
v.
Schneider

Merits:

Argued by David Marcus for appellant Dayco Funding and by Ann Penners Bergen for appellant Schneider. Cause submitted.

Court adjourned.

B205611 Younesi
v.
Shewry et al.

Filed order granting motion to dismiss appeal. Appeal (notice of appeal filed February 1, 2008) dismissed.

DIVISION TWO

B206154 People v. Baron (Not for Publication)

The Court:

The judgment is affirmed.

Doi Todd, Acting P.J., Ashmann-Gerst, J., Chavez, J.

March 17, 2009 (Continued)

DIVISION TWO (continued)

[illegible]

The judgment is affirmed.

Doi Todd, J.

We concur: Boren, P.J.
 Chavez, J.

DIVISION THREE

B206527 Mironov (Not for Publication)
v.
Mironov

The order from which Alexander has appealed is affirmed. Costs on appeal to Natasha.

Croskey, J.

We concur: Klein, P.J.
Kitching, J.

B209541 Husany, et al. (Not for Publication)
v.
City of Los Angeles

The judgment is reversed. The plaintiffs shall recover their costs on appeal.

Croskey, J.

We concur: Klein, P.J.
Aldrich, J.

March 17, 2009 (Continued)

DIVISION THREE (continued)

B210344 People (Not for Publication)
v.
Clarence W. Harris

The judgment is affirmed.

Aldrich, J.

We concur: Klein, P.J.
Croskey, J.

B206147 People (Not for Publication)
v.
Ahmad Sharrie Gay

The judgment is affirmed.

Klein, P.J.

We concur: Croskey, J.
 Kitching, J.

B206733 People (Not for Publication)
v.
Jose Anthony Amado

The trial court's order denying Amado's motion to vacate the judgment entered following his plea of guilty to the sale or transportation of marijuana is affirmed.

Croskey, Acting P.J.

We concur: Kitching, J.
 Aldrich, J.

DIVISION THREE (continued)

B208595 Los Angeles County, D.C.F.S. (Not for Publication)
 v.
 O.V.

The juvenile court's order sustaining the Department's allegation that Kayla was a person described by section 300, subdivision (3), is affirmed.

Kitching, J.

We concur: Croskey, Acting P.J.
 Aldrich, J.

B203170 Reyes (Not for Publication)
 v.
 Galang

The order is affirmed. Appellant Abelardo Cortez Galang is to pay all costs on appeal.

Aldrich, J.

We concur: Klein, P.J.
 Kitching, J.

B203961 Sanchez, et al. (Certified for Publication)
 v.
 Western Pizza Enterprises, Inc.

The order is affirmed. Sanchez is entitled to recover his costs on appeal.

Croskey, J.

We concur: Klein, P.J.
 Aldrich, J.

DIVISION FOUR

B206020 People (Not for Publication)
v.
M.F.

The order of wardship is modified by striking the five-year maximum term of confinement, and in all other respects, the order of wardship is affirmed. The juvenile court is directed to correct the minute order of the disposition hearing accordingly.

Epstein, P.J.

We concur: Willhite, J.
Manella, J.

B208197 People (Not for Publication)
v.
Rosales

The judgment is modified to reflect imposition of a \$50 penalty assessment on the laboratory analysis fee under Penal Code section 1464, subdivision (a); a \$35 penalty assessment on the laboratory analysis fee under Government Code section 76000; a \$10 state surcharge on the laboratory analysis fee under Penal Code section 1465.7, subdivision (a); and a \$15 state construction penalty under Government Code section 70372, subdivision (a)(1), as reduced under Government Code section 70375, subdivision (b). The trial court is directed to prepare a corrected abstract of judgment and forward a certified copy to the Department of Corrections and Rehabilitation and in all other respects, the judgment is affirmed.

Suzukawa, J.

We concur: Epstein, P.J.
Willhite, J.

March 17, 2009 (Continued)

DIVISION FOUR (continued)

B210139 People (Not for Publication)
v.
Fletes

The judgment is affirmed.

Willhite, J.

We concur: Epstein, P.J.
Manella, J.

B204003 Angelin et al. (Certified for Partial Publication)
v.
Brescia

The judgment is reversed. Appellant(s) to recover costs.

Willhite, Acting P.J.

We concur: Manella, J.
Suzukawa, J.

B205596 Aboutanos (Not for Publication)
v.
Franco et al.

The order of dismissal is reversed, and the matter is remanded with directions to the trial court to enter judgment incorporating the terms of the settlement agreement. Each side to bear their costs on appeal.

Willhite, Acting P.J.

We concur: Manella, J.
Suzukawa, J.

March 17, 2009 (Continued)

DIVISION FIVE

B210228 People (Not for Publication)
v.
Gloria Henderson

The judgment is affirmed.

Turner, P.J.

We concur: Armstrong, J.
 Mosk, J.

B205524 Tony Neman, on behalf of U.S. Development 26, LLC
v.
Federal Deposit Insur. Corp.as Receiver for Washington Mutual Bank

Filed order granting motion to dismiss appeal. Appeal (notice of appeal filed January 29, 2008) dismissed.

DIVISION SIX

B200642 People (Not for Publication)
v.
Leblue

We modify the judgment by striking the one-year prior prison term enhancement. We order the trial court to amend the abstract of judgment and forward the amended abstract to the Department of Corrections. The judgment is otherwise affirmed.

Gilbert, P.J.

We concur: Coffee, J.
Perren, J.

March 17, 2009 (Continued)

DIVISION SIX (continued)

B203982 People (Not for Publication)
v.
Mcintyre

The abstract of judgment is ordered modified to reflect 337 days of actual presentence custody credit. In all other respects, the judgment is affirmed.

Gilbert, P.J.

We concur: Yegan, J.
Coffee, J.

[illegible]

The judgment is affirmed.

Yegan, J.

We concur: Gilbert, P.J.
Perren, J.

B204830 Franke (Certified for Publication)
v.
BAM Building Co.

The award of \$39,270 in attorney's fees to Franke as the prevailing party in this action on the undertaking is vacated. the judgment is in all other respects affirmed. Each party shall bear their own costs on appeal.

Coffee, J.

We concur: Gilbert, P.J.
 Yegan, J.

DIVISION SEVEN

B201435 Johnson (Not for Publication)
v.
Bostwick

The orders are affirmed. Johnson is to recover costs on appeal.

Jackson, J.

We concur: Perluss, P.J.
Woods, J.

B207855 People (Not for Publication)
v.
Howlett

The judgment is affirmed.

Jackson, J.

We concur: Woods, Acting P.J.
Zelon, J.

B207013 Martinez et al., (Not for Publication)
v.
Autozone, Inc.

Paragraph (1) of the judgment is modified to read: "This action and all settled claims of the Plaintiff and each member of the Settlement Class against AutoZone, Inc., are dismissed with prejudice. Except to the extent based on the same operative facts alleged in the complaint, claims not covered by the Settlement Agreement include the following." In all other respects, the judgment is affirmed. The order denying the motion to set aside void judgment is affirmed. Each side to bear its own costs on appeal.

Woods, Acting P.J.

We concur: Zelon, J.
 Jackson, J.

DIVISION SEVEN (continued)

B207901 Los Angeles County, D.C.F.S. (Not for Publication)
v.
Alexander C.

The orders are affirmed.

Woods, J.

We concur: Perluss, P.J.
Zelon, J.

B203490 People (Not for Publication)
v.
Downey

The judgment is affirmed.

Woods, J.

We concur: Perluss, P.J.
Jackson, J.

DIVISION EIGHT

B192846 Karr et al. (Not for Publication)
v.
Hook;
Coco et al.

The judgment is affirmed. The parties shall bear their own costs on appeal.

Rubin, Acting P.J.

We concur: Flier, J.
Bigelow, J.

March 17, 2009 (Continued)

DIVISION EIGHT (continued)

B206613 People (Not for Publication)
v.
Chandler

The judgment is affirmed.

Flier, J.

We concur: Rubin, Acting -+P.J.
Bigelow, J.

1005561-09

The Honorable **VINCENT J. O'NEILL**, Judge of the Superior Court of California, **County of Ventura**, is hereby assigned to assist the Court of Appeal, Second Appellate District, Division **Eight**, as a justice thereof, on the following dates:

March 24, 2009

and until completion and disposition of all causes and matters submitted pursuant to this assignment including, if necessary by reason of a vacancy or disqualification of a Court of Appeal Justice, all petitions for rehearing arising out of such causes and matters.

This assignment does not extend to any matter in which the panel would be composed of two justices pro tempore.

March 16, 2009

Ronald M George
Chief Justice of California and
Chairperson of the Judicial Council